

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**RWJ CORPORATION**

**Employer**

**and**

**Case Nos. 8-RC-16909**

**ROAD SPRINKLER FITTERS, LOCAL 669,  
UA, AFL-CIO a/w UNITED ASSOCIATION OF  
JOURNEYMAN AND APPRENTICES OF THE  
PLUMBING AND PIPE FITTING INDUSTRY OF  
THE U.S. AND CANADA, AFL-CIO**

**Petitioner**

**ORDER DIRECTING HEARING ON CHALLENGED BALLOT  
AND NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement approved by me on October 11, 2007, an election was conducted on November 2, 2007, among the employees in the following described unit:

*All full-time and regular part-time, lead men, fitters, helpers, service tech field employees and warehouse employees employed by the Employer at its 1945 South 12<sup>th</sup> Street, Sebring, Ohio facility and excluding all other employees including all designers, salespersons, truck drivers, office clericals, and all other professional employees, guards and supervisors as defined in the Act.*

The payroll period for eligibility was that ending October 5, 2007. The Tally of Ballots issued after the election shows that of approximately nineteen (19) eligible voters, nineteen (19) cast ballots, of which nine (9) were cast for and six (6) against the Petitioner. There were four (4) challenged ballots, a number sufficient to affect the results of the election.<sup>1</sup> The ballots of Tony Bolen, Bart Kelly, Barry Saeger and Herbert "Jim" Trainer were challenged.

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<sup>1</sup> Both the Petitioner and the Employer filed timely Objections to Conduct Affecting the Results of the Election. In a separate document, I ordered a hearing on the Petitioner's Objection 30 and Additional Objectionable Conduct and dismissed the Employer's Objection 1. The hearing on the Objections was ordered to be consolidated with the hearing in Case Nos. 8-CA-37361 and 8-CA-37509 before an Administrative Law Judge.

On February 20, 2008 I issued a Report on Challenged Ballots, recommending that the challenge to the ballot of Tony Bolen be sustained, that the challenge to the ballots of Bart Kelly and Barry Saeger be overruled and that their ballots be opened and counted. On March 12, 2008 the Board issued a Decision and Direction, adopting my findings and recommendations and directing that the ballots of Kelly and Saeger be opened and counted. The ballots were opened and counted on March 21, 2008 and a revised tally of ballots issued that date. The revised tally of ballots shows that of approximately nineteen (19) eligible voters, nineteen (19) cast ballots, of which nine (9) were cast for and eight (8) against the Petitioner. As noted there was one sustained challenge. The remaining challenged ballot is sufficient to affect the results of the election.

On February 20, 2008, I issued an Order Directing Hearing on Challenged Ballot ordering that the challenge to the ballot of Herbert "Jim" Trainer be resolved at a hearing before a duly designated hearing officer. No date and time was set for the hearing pending the outcome of the revised tally of ballots to be issued pursuant to the Report on Challenged Ballots. On March 12, 2008 the Board issued a Decision and Order adopting my findings and recommendations and remanding the proceeding to me. Since Trainer's ballot remains determinative:

### **ORDER**

**IT IS HEREBY ORDERED** that the challenge to the ballot of Herbert "Jim" Trainer be resolved at a hearing before a duly designated hearing officer.

**YOU ARE HEREBY NOTIFIED** that on Monday, April 7, 2008 at 10:00 a.m., and on consecutive days thereafter until completed, in a hearing room of the National Labor Relations Board, at the AJC Federal Building, Room 1695, 1240 East Ninth Street, Cleveland, Ohio a hearing will be conducted before a hearing officer of the National Labor Relations Board to resolve the issues raised by the challenge to the ballot of the above-named voter, at which time and place the parties will have the right to appear in person or otherwise to give testimony and call, examine, and cross-examine witnesses and present oral argument pertinent to the issues delineated above by the challenges.

**IT IS FURTHER ORDERED** that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties, a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues raised by the challenges herein. Within fourteen (14) days from the date of the issuance of said report any party may file with the Board in Washington, D.C., an original and eight copies of exceptions to such report. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties to this proceeding and upon the Regional Director and shall file a statement of service with the Board. If no exceptions are filed to such report, the

Board may, upon expiration of the period for filing exceptions, decide the matter forthwith upon the record or make other disposition of the case.

Dated at Cleveland, Ohio this 26<sup>th</sup> day of March 2008.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

**CASE NO. 8-RC-16909**

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The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

1. The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
2. Grounds thereafter must be set forth in ***detail***;
3. Alternative dates for any rescheduled hearing must be given;
4. The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; ***and***
5. Copies must be simultaneously served on all other parties (*listed below*), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

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